

ORDINANCE NO. _____

**CHAPTER 7
TRAFFIC**

**AN ORDINANCE TO CREATE SECTION 7.12 OF THE TRAFFIC CODE OF
THE MUNICIPAL CODE OF THE CITY OF WAUKESHA, WISCONSIN**

Whereas, Sec. 62.11(5) Wis.Stats. authorizes the Common Council of the City of Waukesha to act for the good order of the City of Waukesha, for its commercial benefit and for the health, safety and welfare of the public; and

Whereas, Sec. 62.11(5) Wis.Stats. further authorizes that the Common Council of the City of Waukesha may carry out the above powers by regulation, fine, confiscation and other necessary and convenient means; and

Whereas, Sec. 349.139 Wis. Stats. authorizes municipalities to provide for the removal, impoundment, and disposal of vehicles by ordinance when certain conditions are met; and

Whereas, the Common Council of the City of Waukesha has enacted certain restrictions on parking within the City in order to promote traffic safety, enhance the free flow of traffic and, in certain commercial and residential areas of high demand for parking, to fairly allocate parking spaces by restricting, charging for or limiting parking time; and

Whereas, the Common Council finds that certain vehicles are repeatedly cited for parking violations which negatively impacts the access to parking within the City; and

Whereas, a significant percentage of the owners of vehicles which are repeatedly cited for parking violations disregard those citations and/or fail or refuse to pay the forfeitures associated with those parking violations; and

Whereas, the Common Council finds additional measures are required in order to deter future parking violations while reasonably allocating the limited resources of the City's police department and to provide for the prompt and efficient method of removing illegally parked vehicles;

**NOW THEREFORE, THE COMMON COUNCIL OF THE CITY OF
WAUKESHA DO ORDAIN AS FOLLOWS:**

SECTION I. Section 7.12 of the Waukesha Municipal Code is hereby created to read as follows:

7.12 Removal or Immobilization of Vehicles

(1) DEFINITIONS

(a) “Immobilization device” means a device or mechanism which immobilizes a motor vehicle, making the motor vehicle inoperable.

(b) “Nonmoving traffic violation” has the meaning given in Wis. Stat. §345.28(1)(c).

(c) “Owner” has the meaning given in Wis. Stat. §341.65(1).

(d) “Parking enforcer” means a traffic officer or any other person who enforces nonmoving traffic violations and is employed by the City.

(2) **AUTHORITY TO REMOVE VEHICLES.** Whenever a parking enforcer finds a vehicle legally or illegally parked upon any street, highway or publicly owned or leased parking facility within the City of Waukesha and the vehicle has at least five nonmoving traffic violations issued by the City of Waukesha Police Department which occurred more than 60 days previously and for which the owner has neither paid the forfeiture for each citation nor scheduled an appearance in court in response to each of the citations, the parking enforcer is authorized to immobilize the vehicle with an immobilization device or remove the vehicle to a suitable place of impoundment, including but not limited to private or public parking or storage premises, provided notice requirements pursuant to section (3)(a) have been met. The removal may be performed by or under the direction of the parking enforcer or a towing contractor under contract with the City.

(3) **NOTICE TO OWNER.**

(a) Notice shall be given to the owner and all known lien holders of the vehicle of the existence of the unpaid tickets and the fact that the vehicle may be removed and impounded or immobilized in the future if the owner has neither paid the forfeiture for each violation that occurred more than 60 days previously nor scheduled an appearance in court in response to each citation issued more than 60 days previously for which the forfeiture has not been paid. Said notice shall be sent via first class mail to the last known address of the owner and all known lien holders. The notice shall specify the date on which each citation counted in sub. (2) was issued, the license number or vehicle identification number of the vehicle involved, the place where the citations may be paid, the amount of the forfeitures, and the means by which the citations may be contested. Notice is effective upon mailing. Towing may not be commenced until after 24 hours from the date notice was sent.

(b) If the vehicle is removed and impounded, as soon as practicable and no later than one business day after removal of the vehicle, a notice shall be mailed to the vehicle owner and all known lien holders informing the owner of the vehicle’s location, the procedure for reclaiming the vehicle and the availability of review before the Chief of Police or his designee. The parking enforcer causing the vehicle to be towed shall relay the information to police dispatch so vehicle

owners may obtain the information over the phone the same day their vehicle is towed. For purposes of this subsection, “business day” means the calendar days Monday through Friday, excluding holidays when Waukesha Police Department administrative support staff are not required to work.

(c) If the vehicle is immobilized with an immobilization device, the parking enforcer shall place in a highly visible location and in a reasonably secure manner on the vehicle, at the time of immobilization, a written notice that warns the driver that the device has been placed on the vehicle; specifies for each citation counted under subsection (2), the license number or vehicle identification number of the vehicle involved, the place where the citation may be paid, and the means by which the citation may be contested, or provides a telephone number at which an individual is available to provide this information 24 hours a day; and states the amount of the removal fee under subsection (5), if any, that is in addition to any amount required to be paid as specified in the notice under subsection (3)(a).

(4) **REVIEW.** In the event the owner or lien holder of a vehicle which was removed pursuant to subsection (2) seeks a review of such removal, the owner or lien holder shall notify the Chief of Police or his designee of such request within 10 days of the vehicle’s removal. A review shall be conducted within 10 days of the owner’s request. The Chief of Police or his designee shall determine: 1) whether the defendant actually had at least five prior unpaid parking tickets issued by the Waukesha Police Department which were unpaid for more than 60 days and for which an appearance in court was not scheduled at the time the vehicle was removed; and 2) whether the defendant had been provided more than twenty-four hours notice as set forth in subsection (3)(a), regarding the outstanding unpaid tickets prior to the removal of the vehicle.

(5) **CHARGES FOR REMOVAL AND STORAGE OR IMMOBILIZATION.** Any person redeeming a vehicle impounded under this section shall pay the towing contractor for the costs of impoundment, including the costs of removal, towing and storage. An additional charge shall 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 return the vehicle to a reasonably safe and sanitary condition. Said charges shall be paid to the towing contractor prior to the release of the vehicle. If the Police Department elects to immobilize vehicles with an immobilization device, it shall establish a reasonable fee to remove an immobilization device placed on a vehicle and the amount of the fee shall be kept on file at the Department and made available to the public upon request.

(6) **RELEASE OF VEHICLE.** The owner of a motor vehicle that is removed and impounded or immobilized under subsection (2) may secure release of the motor vehicle upon presentation of proper identification by doing all of the following:

(a) Paying all applicable charges set forth in subsection (5).

(b) Paying all forfeitures specified in each notice issued under subsection (3) or scheduling an appearance in court in response to all citations issued under subsection (2), or a combination of paying forfeitures and scheduling appearances with respect to all citations counted under subsection (2).

(c) Registering the motor vehicle under Wis. Stat. chapter 341 if it is not already registered unless it is exempt from registration under Wis. Stat. §341.05.

(7) ADJUSTMENTS. Whenever the Chief of Police or his designee or a court of competent jurisdiction expressly finds that one or more of the requirements in subsection (4) were not met at the time the vehicle was towed, the Police Department shall authorize release of the vehicle without payment of charges for removal and storage and shall refund any charges for removal and storage of such vehicle which had been previously paid.

(8) UNCLAIMED VEHICLES. In the event a vehicle is removed pursuant to subsection (2) and is not claimed within thirty days the vehicle shall be disposed of pursuant to the procedures set forth in section 12.07(3)(b) of this Municipal Code.

(9) TOWING CONTRACT. The Chief of Police or his designee may enter into contracts for and on behalf of the city for the removal and storage or immobilization of vehicles pursuant to section (2). Any such contract shall provide that the company have adequate equipment, facilities and have personnel available twenty-four hours a day, and that such company furnish the city with an indemnification agreement supported by a performance bond and indemnity bond, and in lieu thereof, a certificate of insurance to hold the city harmless from any claims for damage or theft of the vehicles and personal property therein contained when the same are towed away or immobilized with an immobilization device.

SECTION II. This ordinance shall take effect the day after publication.

Passed this _____ day of _____, 2018.

Mayor

Attest:

City Clerk