

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, FLORIDA, AT CHAPTER 86 (TRAFFIC AND PARKING) BY AMENDING AND RESTATING ARTICLE IV (STOPPING, STANDING AND PARKING) TO AMEND SECTION 86-292 (IMMOBILIZATION OF VEHICLES ON PRIVATE PROPERTY) TO ADD NEW PROVISIONS RELATING TO NOTICE, METHOD OF IMMOBILIZATION AND TOWING AND REMOVAL PROCEDURES; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

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WHEREAS, this Ordinance is enacted pursuant to the home rule powers of the City of West Palm Beach (the “City”) as set forth at Article VIII, Section 2, of the Constitution of the State of Florida, Chapter 166, Florida Statutes, and other applicable controlling law; and

WHEREAS, the City Commission of the City of West Palm Beach (the “City Commission”) is vested with the authority to adopt ordinances to protect the health, safety and welfare of the City’s residents and visitors; and

WHEREAS, Chapter 86, Article IV, Division 3, Section 86-292 of the City Code of Ordinances regulates the immobilization of vehicles on private property and the City commission desires to amend Section 86-292 to add new provisions relating to notice, method of immobilization and towing and removal procedures; and

WHEREAS, the City Commission finds that amending this section will protect the interests of persons parking on private property while, at the same time, protecting the interests of the owners of private property and is thereby, in the best interest of the health, safety and welfare of the citizens and residents; and

WHEREAS, the City desires to amend Chapter 86 (Traffic and Parking) by amending and restating Article IV (Stopping, Standing and Parking) to Amend Section 86-292 (Immobilization of Vehicles on Private Property) as set forth below.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, that:**

**SECTION 1:** The foregoing “Whereas” clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

**SECTION 2:** The Code of Ordinances of City of West Palm Beach, Florida at Chapter 86 (Traffic and Parking), Article IV, (Stopping, Standing and Parking), Section 86-292 (Immobilization of Vehicles on Private Property) is hereby amended and restated and shall now read as follows:

CHAPTER 86 – TRAFFIC

ARTICLE I. - IN GENERAL

Sec. 86-292. - Immobilization of vehicles on private property.

- (a) *Occupational license required.* No property owner or immobilization contractor shall engage in the business of immobilization of motor vehicles parked on private property without permission or authority unless such property owner or immobilization contractor shall first obtain an occupational license in accordance with the procedures set out in chapter 22. For purposes of this section, the term "property owner" shall include and refer to the owner, lessee, or controller, person or entity otherwise in control of real property, their agents, servants, or employees. The immobilization contractor shall sometimes be referred to in this section as the "contractor." The term "premises" shall mean the private property owned, controlled or used by a property owner for the parking of motor vehicles at its business or auxiliary to its business.
- (b) *Immobilization license required.* No property owner or contractor shall engage in the business of immobilization of motor vehicles which are parked on private property without permission or authority unless such property owner or immobilization contractor shall first apply for and obtain an immobilization license.
- (c) *Requirements for immobilization license.* No property owner or immobilization contractor shall be issued an immobilization license under this section unless there is proof of compliance with each of the following requirements:
  - (1) *Notice.*
    - a. Notice must be prominently placed at each driveway access or curb allowing vehicular access to the real property, within five feet from the public right of way line and shall fulfill the following requirements:
      - 1. Notices shall be placed within ~~five feet~~ ten feet from the public right of way line roadway.
      - 2. If there are no curbs or access barriers, the notice must be posted not less than one notice each 25 feet of lot frontage.
      - 3. Each notice must be permanently installed not less than three feet and not more than six feet above ground level.
      - 4. When authorized, "Immobilization Zone" signs may be mounted on the same pole as the "Tow Away" signs. Signs shall be continuously maintained on the real property for not less than 24 hours prior to the immobilization or tow of any vehicle.
    - b. The notice must clearly indicate on a sign which meets the identical physical requirements mandated in this article that parking is reserved for customers only and unauthorized vehicles will be subject to immobilization and/or towing at the owner's expense.
    - c. The notice must also provide the name and telephone number of the person or firm immobilizing the vehicle, and the fee for the removal of the immobilization device, ~~Such fee not to exceed a~~ the maximum rate as established by resolution of the city the Palm Beach County Commission and on file in the city clerk's office. unless modified pursuant to the procedures indicated in

**ORDINANCE NO. 5074-23**

~~this article. No person providing services pursuant to this section shall charge any type of fee other than the fees specifically established by the Palm Beach County Commission. Acceptable methods of payment shall include, but not be limited to, cash, check payable in United States funds and credit cards. The maximum fee for the removal of the immobilization device shall be effective from the date of adoption of the ordinance from which this section is derived.~~

d. ~~The notices shall read substantially as follows meet the following requirements~~ (with the designated information to be inserted at the indicated spaces):

~~ALERT! IMMOBILIZATION/TOW AWAY ZONE ENTERING PRIVATE PROPERTY PARKING PERMITTED FOR (insert name of property owner) CUSTOMERS ONLY. IF YOU PARK YOUR VEHICLE AND LEAVE THE PREMISES, YOUR VEHICLE WILL BE IMMEDIATELY IMMOBILIZED SUBJECT TO A (insert fee) FEE TO RELEASE VEHICLE OR TOWED AT YOUR EXPENSE. IMMOBILIZATION PERFORMED BY: (insert name, address and telephone number to call).~~

(1) A light reflective sign (minimum dimension of 24" wide x 35" high) must be prominently posted on the property as follows:

a. In four inch lettering stating: "ALERT! IMMOBILIZATION/TOW AWAY ZONE."

b. In two inch lettering stating: "ENTERING PRIVATE PROPERTY (insert property name). PARKING IS PERMITTED FOR" (followed by the details of authorized parking requirements).

c. In two inch lettering stating: "UNAUTHORIZED VEHICLES WILL BE IMMOBILIZED AND SUBJECT TO A (insert fee) RELEASE OR TOWED AT OWNER'S EXPENSE".

d. In one inch lettering, the name and address of the company performing the immobilization service.

e. In two in lettering, the telephone number of the company performing the immobilization service.

(2). If the property is being operated as a parking lot business, the notice language in subsection (c)(1) d of this section should be modified to provide that immobilization shall result in the event that the vehicle is parked in the parking lot without payment of the parking fee.

(3). The sign structure containing the required notices must be permanently installed with the words "Alert. Immobilization/Tow-Away Zone." The sign shall meet the physical requirements contained in this article.

(2) *Inspection of real property where immobilization is used to enforce parking restrictions.* The property owner shall provide access to city personnel in order to inspect the required signs on premises where immobilization is used to enforce parking restrictions.

(3) *Method of immobilization.* Immobilization shall be accomplished by placing a steel boot to the front wheel on the driver's side of the motor vehicle installing a mechanical device to a parked vehicle/vessel so as to prevent its usual manner of operation. ~~The steel boot may be placed on any other wheel if placement on the front wheel on the driver's side is not feasible.~~

ORDINANCE NO. 5074-23

- (4) *Warning sign requirement.* ~~Immediately~~ Upon immobilization, the person performing the immobilization shall affix a warning notice written in English, Spanish, ~~and Creole, Portuguese, German and French,~~ on the driver's side window of the vehicle, indicating that the vehicle is immobilized and that any attempt to move it will cause damage to the vehicle/vessel. If the driver's side window is down, the notice shall be affixed on the driver's side of the front windshield of the vehicle. This warning notice shall provide the company name and a local telephone number to contact for the release/removal of the immobilization device. The warning notice must be printed on card stock or weather resistant vinyl no less than eight and one half by five and one half inches in size, with the word "WARNING" centered at the top of the notice in a minimum font size of forty points. The warning notice shall be submitted with the immobilization company's operating permit application and approved by the City, and shall provide a local telephone number to contact for release of the immobilization device, and the fee for its removal. The city shall provide the property owner or immobilization contractor with a form copy of the warning sign simultaneously with the issuance of its immobilization license.
- (5) *Availability and response time.* ~~The property owner or immobilization contractor shall make available on a 24-hour, seven-days-a-week basis, attendants and equipment for the timely release of the immobilization device. The immobilization contractor shall respond within one hour of being contacted by the immobilized vehicle owner is required to remove the immobilization device from the vehicle. The immobilization device shall be removed within 30 minutes of a call for such service by the owner of the immobilized vehicle provided payment to remove the device has been made.~~
- (6) *Record of contracts.* The property owner or immobilization contractor shall file and maintain on record at all times with the mayor or ~~his~~ the Mayor's designee a list of any and all current written contracts for immobilization services on private real property within the city limits. The list shall be kept current and shall provide the city with (i) the address of the real property; (ii) the date of the agreement; (iii) a contact name and telephone number at the premises.
- (7) *Towing/removal requirements.* An immobilized vehicle shall not remain immobilized on private property for more than 24 96 hours. After such period of time has expired, the vehicle shall be released from the ~~steel boot~~ immobilization device and may be towed or removed.
- (8) *Insurance.* The property owner or immobilization contractor shall file with the city's risk management division and have in effect an insurance policy or certificates of insurance in lieu thereof, which shall indemnify or insure the property owner or immobilization contractor for all claims of damage to property resulting from any action or operation in connection with the service performed, such amount not to be less than \$20,000.00 for each incident.
- (9) *Recordkeeping procedures.* The property owner or immobilization contractor shall keep an immobilization log with information including but not limited to: date and time the vehicle was observed illegally parked, compliance with subsection (c) (3) of this section, the date and time of immobilization, the location/address of the real property where the immobilization took place, make, model, color and license tag number of the vehicle immobilized. In addition, the immobilization contractor shall include in the log the following release information: verification of vehicle ownership, the name of the person removing the steel boot and the name of the person requesting tow service, if applicable. All files, records, and logs shall be available for inspection and checking on the subject premises during normal

## ORDINANCE NO. 5074-23

working hours by the mayor ~~or his designee~~, upon reasonable notice to the property owner or immobilization contractor.

- (10) *Ethics and conduct.* The property owner and immobilization contractor shall conduct their business in an orderly, ethical, and business-like manner at all times, and shall use every means to obtain and keep the confidence of the motoring public. All public contact shall be in a courteous and orderly manner.
- (d) *Enforcement.* If at any time a property owner or immobilization contractor fails or refuses to comply with, or violates any of the provisions of this section, such property owner engaging the services of the immobilization contractor shall be subject to prosecution under the city's code enforcement system. Additionally, the city may seek injunctive relief and/or follow procedures to revoke and/or suspend the occupational license as set forth in this code.
- (e) *Exemptions.* Nothing in this section shall affect the rules and regulations governing any person or firm engaged in the towing and removal of vehicles parked on private property within the city.
- (f) *Rebates.* The rebate or payment of money or any other valuable consideration, directly or indirectly from the individual or firm immobilizing or removing vehicles to the owners or operators of the premises from which the vehicles are immobilized or removed, for the privilege of immobilizing or removing those vehicles, is prohibited.
- (g) *Identification.* The immobilization contractor's employees or agents shall wear identification tags stating the full name of the contractor and the name of the employee or agent; no identification worn by contractor's employees or agents shall use the words "enforcement," "department" or "police." Such identification tags shall be prominently displayed on the front left side of the employee's or agent's shirt. Contractor's employees or agents shall not wear uniforms that bear resemblance to law enforcement officers. No badges that bear resemblance to law enforcement officers may be worn by immobilization contractor or staff. All contractor vehicles shall display the company name (or name of joint venture or individual owner or other entity ownership) on the driver and passenger side of the vehicle in letters at least three inches high. The company's address (or address of joint venture, or individual owner or other entity ownership) and telephone number shall be displayed on the driver and passenger side of the vehicle in letters at least one inch high. No contractor shall use the words "enforcement," "department" or "police" in its company name (or name of joint venture, fictitious name, or entity name).
- (h) *Citizen complaints.* The immobilization contractor shall respond in writing to any complaints received by the mayor ~~or his designee~~, concerning misconduct on the part of contractor or its employees or agents, such as excessive charges, poor business practices, discourteous service, damage to vehicles or failure to give notice as required by this section. The mayor ~~or his designee~~ shall notify the contractor of any complaints within five business days from receipt of the citizen complaint. The contractor shall provide any additional explanation or information with respect to the particular complaint within five days upon notification. A written disposition of the complaint will be forwarded to the contractor and the citizen complainant upon completion of the investigation.

**SECTION 3:** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**ORDINANCE NO. 5074-23**

**SECTION 4:**       Should any section or provision of this Ordinance or any portion, paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

**SECTION 5:**       Authority is hereby granted to codify the amendments set forth in this Ordinance.

**SECTION 6:**       This Ordinance shall take effect in accordance with law.

[SIGNATURES ON FOLLOWING PAGE]

**FIRST READING THIS 8TH DAY OF JANUARY, 2024.  
SECOND READING AND PASSAGE THIS 22ND DAY OF JANUARY, 2024.**



**ATTEST:**

X *Shaquita Edwards*

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CITY CLERK  
Signed by: Shaquita Lasheae Edwards

**CITY OF WEST PALM BEACH BY  
ITS CITY COMMISSION:**

 Recoverable Signature

X *Keith A. James*

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PRESIDING OFFICER  
Signed by: Keith A. James

**APPROVED AS TO FORM AND  
LEGALITY:**

1/19/2024

X *Samuel A. Thomas*

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CITY ATTORNEY  
Signed by: Samuel A Thomas