

REQUEST FOR CITY COUNCIL CONSIDERATION

Meeting Date: January 9, 2023

Agenda Item: 5E	Prepared by: Chris Noury, City Attorney
Agenda Section: Consent: Ordinance. Second Reading.	Date: January 3, 2023
Subject: Amendment to Chapter 22, Vehicles for Hire, of the Code of Ordinances of the City of North Myrtle Beach regarding vehicle immobilization devices	Division: Legal

Background:

The use of vehicle immobilization devices such as wheel-lock devices and “barnacles” (i.e., devices covering a vehicle’s windshield) by towing operators and/or private landowners is on the rise.

To protect the public from being required to pay unreasonable fees to have the immobilization devices removed, the attached ordinance sets a maximum fee of \$50 that may be charged for the removal of the device. The \$50 cap shall include any and all fees, costs or any other charges including but not limited to administrative fees, user fees, installation fees or any other type of fee so that in no event shall any person have to pay in excess of fifty dollars (\$50) for the removal of the immobilization device.

The ordinance also contains language regarding notification signage to be placed on the property to alert vehicle owners that an immobilization device may be placed on a vehicle that is not authorized to be parked on the property.

The ordinance further contains language for violations of the ordinance which shall be punishable as provided in Section 1-6 of the City’s Code of Ordinances.

Recommended Action:

Approve or deny the proposed ordinance on second reading

Reviewed by City Manager		Reviewed by City Attorney
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Council Action:
Motion By _____ 2nd By _____ To _____

AN ORDINANCE OF THE CITY OF NORTH MYRTLE BEACH REGARDING THE USE OF VEHICLE IMMOBILIZATION DEVICES SETTING FORTH, AMONG OTHER PROVISIONS, THE MAXIMUM FEE TO BE CHARGED FOR REMOVAL OF A VEHICLE IMMOBILIZATION DEVICE, REQUIRED SIGNAGE AND PENALTY FOR VIOLATION OF THE ORDINANCE.

Sec. 22-48 Vehicle Immobilization Devices.

Definition: Immobilization Devices include, but are not limited to, any device, that prevents the wheels and/or tires of a vehicle from moving and/or any device that covers or obscures any window/windshield of a vehicle.

(A) It shall be unlawful to place any type of immobilization device on a vehicle on commercial or private property without authorization from the owner of the motor vehicle or of the city, except under the following circumstances:

(1) The property owner has posted the property with signs. Each sign face shall be at least **six (6) square feet.**

(2) The posted signs were in place, clearly visible and legible to any driver approaching any point of ingress to the property where parking is prohibited or restricted at the time the vehicle was parked; and

(3) The posted signs contain a clear warning that:

a) Violators' vehicles will be immobilized, at the vehicle owner's expense;

b) The telephone number to call for release of the vehicle;

c) That the maximum price for release of the vehicle is **fifty dollars (\$50.00);** and

d) That the vehicle immobilization device operator must arrive to release the vehicle within thirty (30) minutes of calling for release of the vehicle or there can be no charge for the release of the vehicle.

e) Automated devices must release within fifteen (15) minutes of payment and devices will not be delayed once payment has been received.

(4) All signage must be approved by the North Myrtle Beach Police Department.

(5) The signage requirements in this article shall be in addition to the requirements for signage contained in the City of North Myrtle Beach Towing Ordinance.

(6) The owner of the vehicle immobilized on commercial or private property shall be responsible for paying the applicable immobilization fee (which in no event shall exceed fifty dollars (\$50))

provided that the private property owner has complied with all of the requirements contained in this subsection.

If a vehicle is immobilized as a result of a property owner's request and the property owner has not complied with the requirements of subsection (A), or if the vehicle is shown to have been legally parked, the property owner shall be guilty of a misdemeanor punishable as provided for in Section 1-6 and may, in the discretion of the municipal judge as provided in S.C. Code 1976, Section 14-25-75, be subject to reimburse the owner of the vehicle for all immobilization charges that the owner of the vehicle paid.

Before placing an immobilization device on a vehicle whether on commercial or private property without authorization from the vehicle owner, the person placing the immobilization device shall first obtain from the property owner written authorization which shall set forth the name and signature of the property owner, unless such authorization has been previously filed with the North Myrtle Beach Police Department.

Sec. 22-49 Maximum charge for nonconsensual immobilization.

(A) The maximum rate that may be charged for a nonconsensual immobilization of a vehicle on commercial or private property shall be **fifty dollars (\$50.00)** which fifty dollar (\$50) cap shall include any and all fees, costs or any other charges including but not limited to administrative fees, user fees, installation fees or any other type of fee, cost or charge of whatever name so that in no event shall any person have to pay in excess of fifty dollars (\$50) for the removal of an immobilization device. Notwithstanding the provisions of any other law, when a vehicle has been immobilized on commercial or private property and subsequently towed from such property, no additional charge may be imposed for the towing of such vehicle.

(B) Immediately upon installing the immobilization device, an orange glass vinyl notification decal at least forty-seven (47) square inches in size shall be prominently placed in the center of the driver's side window or on the front windshield directly in front of the vehicle steering wheel. The specific language on the notification decal shall be subject to approval by the City of North Myrtle Beach Police Chief and shall clearly and legibly inform the operator of the vehicle that an immobilization device has been installed on the vehicle and that attempting to move the vehicle will cause serious damage to the vehicle. This decal shall display the telephone number that the owner/user of the immobilized vehicle can contact to have the immobilization device removed/released from the owner's/user's vehicle.

(C) Persons or entities utilizing vehicle immobilization devices shall maintain twenty-four (24) hour telephones and immobilization device removal services and shall respond to a request to remove an immobilization device within thirty (30) minutes. If an immobilization device is not removed within thirty (30) minutes of a customer request, the immobilization device shall be removed at no charge. If the owner or operator of the immobilization device fails to appear to remove the immobilization device within one (1) hour of a customer request, the owner or operator of the immobilization device shall be subject to a fine as indicated in subsection (f).

(D) If the owner, authorized operator, or authorized agent of the owner of a motor vehicle that is parked without authorization on private property attempts to retrieve said vehicle before immobilization actually occurs there shall be no fee and the vehicle owner shall be allowed to remove the vehicle without further delay.

(E) Every vehicle immobilization device operator doing business in the corporate limits of the city shall accept major credit cards in addition to cash and have the ability to accept credit card/debit card/electronic payment at the location of the vehicle where the immobilization device has been placed. There shall be no additional fees charged for the use of credit cards.

(F) A vehicle immobilization device operator who violates the terms of this Section shall be guilty of a misdemeanor punishable as provided for in Section 1-6.

DONE, RATIFIED AND PASSED, THIS _____ DAY OF _____, 2023.

ATTEST:

Mayor Marilyn Hatley

City Clerk

APPROVED AS TO FORM:

City Attorney

FIRST READING: 12.5.2022

SECOND READING: 1.9.2023

REVIEWED:

City Manager

ORDINANCE: 23-02