

## Sec. 106-269. - Immobilization.

- (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 102 article V. 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 as 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 company 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 property, within five feet from the public right-of-way line.
    - b. The notice must clearly indicate on a sign which meets the identical physical requirements mandated in this article (article VI, Towing and Immobilization of Vehicles), 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, the fee for the removal of the immobilization device, such fee not to exceed a maximum rate as set forth in appendix A (\$25.00), unless modified pursuant to the procedures indicated in this article, and acceptable methods of payment. Such methods shall include cash, check payable in U.S. funds and credit card. 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 amended [September 22, 1999].
    - d. The notices shall read substantially as follows (with the designated information to be inserted at the indicated spaces): (insert international symbol) 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 to request removal of the immobilization device.
    - e. 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 manager or his designee in order to inspect the required signs on premises where immobilization is used to enforce parking restrictions.
  - (3) *Notification to owner.* Prior to immobilization, the property owner or immobilization contractor's representative shall attempt to notify the owner, operator, or person legally in control of the vehicle to retrieve it promptly or the vehicle will be immobilized.
  - (4) *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. The steel boot may be placed on any other wheel if placement on the front wheel on the driver's side is not feasible.
  - (5) *Warning sign requirement.* Upon immobilization, the property owner shall affix a warning notice written in English, Spanish, 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, and shall provide the 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.
  - (6) *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 is required to remove the immobilization device from the vehicle within 30 minutes of a call for said service by the owner of the immobilized vehicle provided payment to remove the device has been made.
  - (7) *Record of contracts.* The property owner or immobilization contractor shall file and maintain on record at all times with the city manager or his 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 (a) the address of the real property; (b) the date of the agreement; © a contact name and telephone number at the premises.
  - (8)

*Towing/removal requirements.* An immobilized vehicle shall not remain immobilized on private property for more than 24 hours. After such period of time has expired, the vehicle shall be released from the steel boot and may be towed or removed pursuant to this article, and no fee shall be assessed for release of the immobilization device.

- (9) *Insurance.* The property owner or immobilization contractor shall file with the city's risk management office 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.
- (10) *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 (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 steel boot and the name of person requesting tow service, if applicable. All files, records, and logs shall be available for inspection and checking on the subject premises during normal working hours by the city manager or his designee.
- (11) *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.
- (12) *Term of license.* The term of an occupational license issued under this section shall be in accordance with chapter 102, article V.
- (d) *Enforcement.* If at any time a property owner or immobilization contractor shall fail or refuse 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, in accordance with chapter 30. Additionally, the city may seek injunctive relief and/or follow procedures to revoke and/or suspend the occupational license as set forth in sections 102-383, 102-384 and 102-385 where there are repeated violations of this article.
- (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", "Police", or "Parking". Said identification tags shall be prominently displayed on the front left side of the employee or agent's shirt. Contractor's employees or agents shall not wear uniforms that bear resemblance to police or parking department officers in Miami-Dade County. No badges 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", "Police", or "Parking" 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 city manager 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, failure to give notice as required by this ordinance. The city manager or his designee shall notify contractor of any complaints within five business days from receipt of the citizen complaint. 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.

(Ord. No. 96-3055, § 2, 9-25-96; Ord. No. 97-3081, § 2(44-82), 6-4-97; Ord. No. 98-3147, § 1, 10-21-98; Ord. No. 99-3207, § 1, 9-22-99)

#### Sec. 106-270. - Penalties.

- (1) the city manager's designee shall enforce the provisions of this section. This does not preclude other law enforcement agencies from any action as necessary to assure compliance with all applicable laws. If an inspector finds a violation of this section, the inspector shall issue a notice of violation to the violator as provided in section 30-71. The notice shall inform the violator of the nature of the violation, amount of

fine for which the violator may be liable, instructions and due date for paying the fine, notice that the violation may be appealed by requesting an administrative hearing within ten days after service of the notice of violation, and that failure to do so shall constitute an admission of the violation and waiver of the right to a hearing.

(2) Violations shall be issued as follows:

a. Fines

1. First offense: \$100.00.
2. Second offense: \$250.00.
3. Third offense: \$500.00.
4. Fourth offense and all subsequent offenses \$500.00 and the city may also revoke the contractor's business license pursuant to the procedures set forth in section 102-383, 102-384 and 102-385, and may be subject to a suit for injunctive relief to enjoin the operation of the contractor in violation of this section.

(3) As an additional means for enforcement/collection and supplemental to above, when a notice or record of any past due penalties which became due and payable to the city after the effective date of this section is recorded in the public records of miami-dade county, said notice shall constitute a special assessment lien upon all real and personal property of the contractor owing such penalties, and shall remain a lien equal in rank and dignity with the lien of ad valorem taxes and shall be superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the property involved. Such liens may be foreclosed or levied upon in the manner provided by law.

(4) In addition to the above, a violation of this section shall constitute a misdemeanor and shall be punished by imprisonment not to exceed 60 days or by imposition of a fine not to exceed \$500.00 or both.

(Code 1964, § 44-80; Ord. No. 98-3147, § 2, 10-21-98; Ord. No. 99-3207, § 2, 9-22-99)